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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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SECTION 214
CERTRITOS, CALIFORNIA

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In re Application of

GTE CALIFORNIA INCORPORATED

For Section 214 Authority to provide
video channel service to an affiliate
in Cerritos, California

File No. W-P-C-7097
CC Docket No. 94-81

To: Chief, Common Carrier Bureau

MOTION FOR DEFERRAL OF RULING

APOLLO CABLEVISION, INC.

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October 11, 1995

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MOTION FOR DEFERRAL OF RULING

Apollo CableVision, Inc. ("Apollo"), by its attorneys, hereby requests that any Bureau action on the captioned application be deferred until Commission action on a related Apollo Freedom of Information Act request. In support of this request, the following is submitted:

In a reversal of the usual sequence, the captioned application is intended to provide the underlying authority for tariff proposals now being reviewed by the Common Carrier Bureau in this proceeding (GTOC Transmittal Nos. 873, 874 et seq.). The investigation of those tariffs includes a consideration of GTE Telephone's proposed conversion of nonregulated investment into regulated assets -- both the propriety of that conversion and its rate and competitive implications. In a "Petition To Deny" filed September 13, 1995, Apollo opposed a grant of the captioned application.

In page 6 of the application, in describing its "accounting safeguards" against the potential anticompetitive conduct which Apollo has detailed elsewhere, GTE Telephone states:

In the [1989] *Cerritos Order*, the Commission required GTECA to account for all costs of its Cerritos operations on a non-regulated "below-the-line" basis. GTECA has established unique sub-accounts which have permitted it to properly track and record all investment, expense and revenue amounts associated with its Cerritos operations. These accounting systems and records have been reviewed and audited the Common Carrier Bureaus' [sic] Accounting and Audits Division. . . .^{1/}

The clear implication, therefore, is that GTE's accounting for Cerritos has already been blessed in some fashion by the Bureau's own personnel.

Apollo learned yesterday that such is not the case.

In light of the application statement, Apollo, on August 10, 1995, filed a FOIA request with the Commission, seeking any documentation concerning an Accounting and Audits Division review of GTE Telephone's Cerritos "accounting systems and records". At a meeting yesterday afternoon among personnel of the Accounting and Audits Division, Apollo counsel and GTE counsel, it was learned that in fact no "review" or "audit" of the carrier's

^{1/} In response to an earlier MCI challenge to the adequacy of GTE Telephone's nonregulated asset valuation, the carrier similarly stated:

GTECA has filed periodic reports with the Commission and the Commission's staff has conducted audits of GTECA's accounting and financial records.

"GTE Rebuttal to Oppositions and Reply Comments," September 30, 1994, p. 5.

Cerritos accounting has occurred since 1988 (prior to the commencement of operations in Cerritos). Moreover, GTE Telephone is objecting to the release of any information concerning either the 1988 audit or a "visit" by unnamed Accounting and Audits Division personnel in December 1993/January 1994 to the Cerritos site.

At this point, Apollo is awaiting the Commission's ruling on Apollo's FOIA request. What is already clear, however, is that in fact there has been no Accounting and Audits Division approval -- and certainly no "review" or "audit", in the ordinary sense of those words -- of GTE Telephone's Cerritos accounting since 1988.

Because Apollo has not been able to obtain information on the matter, however -- a delay occasioned in part by the applicant's procedural conduct -- Apollo is unable to respond to the pleading assertion. Moreover, as a matter of substance, what Commission staff conclusions, if any, may have been reached concerning the adequacy of GTE Telephone's accounting system to support its proposed nonregulatory-to-regulatory conversion of assets, or to protect against the potential anticompetitive effects on Apollo of the carrier/affiliate combination, are matters essential to an informed public interest determination here.

Accordingly, Apollo requests that final action on the captioned application be deferred until the Commission acts on Apollo's FOIA request and, if that ruling is favorable,

until Apollo has an opportunity to comment on the public interest significance of any such information for the application.

Respectfully submitted,

APOLLO CABLEVISION, INC.

By:

A handwritten signature in black ink, appearing to read "Edward P. Taptich", written over a horizontal line.

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October 11, 1995

CERTIFICATE OF SERVICE

I, Mona G. Patterson, a secretary in the law firm of Gardner, Carton & Douglas, certify that I have this 11th day of October, 1995, caused a copy of the foregoing MOTION FOR DEFERRAL OF RULING to be served on the following by first-class mail, postage prepaid:

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